THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5500 OF 2007

DATED: 16-03-2007

BETWEEN

M/s. Thirumani Auto Ancillaries Ltd.,
7-1-31/1, Dharam Karan Road,
Ameerpet, Hyderabad – 16, rep. by its
Managing Director, Sri T.M. Venkatesan,
S/o. late Sri T. Munasami Iyer,
R/o. Hyderabad.

…PETITIONER

AND

Employees State Insurance Corporation,
Headquarters, CIG Road, Near Bal Bhavan,
New Delhi – 110 002, Rep. by its Insurance
Commissioner and others.

…RESPONDENTS

ORDER:

Petitioner questions the order dated 20.12.2006 passed under Section 45-A of the Employees' State Insurance Act, 1948 (for short 'the Act') by the second respondent.

2. Admittedly as against the said order petitioner has an effective alternative remedy to resolve the dispute under Section 75 of the Act before the Employees Insurance Court.

3. Learned counsel for the petitioner submits that the said order has been passed without hearing and without giving a reasonable opportunity to the petitioner, therefore, it is an *ex parte* order.

He further submits that the petitioner to give him opportunity to provide the relevant records made a representation dated 29.01.2007, which was received by the first respondent on 01.02.007 and he also made another representation dated 02.02.2007, which was received by the second respondent on 05.02.2007 requesting him not to take coercive steps for recovery of the amount.

4. Admittedly, the petitioner has not filed a representation before the second respondent requesting him to give opportunity to him to file the relevant records; instead he filed the same before the first respondent, who has not passed the said order. However, there is an effective alternative remedy available to the petitioner.

In view of the remedy available to the petitioner under Section 75 of the Act, the writ petition is dismissed with a liberty to the petitioner to avail the remedy. However, in order to enable the petitioner to avail the remedy the impugned order shall be kept in abeyance for a period of two weeks. There shall be no order as to costs.

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V. ESWARAIAH, J

March 16, 2007
DSK